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The Honorable John C. Coughenour

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

v.

KEVIN SCOTT TA,
Defendant.

NO. CR18-194 JCC

PLEA AGREEMENT

The United States of America, by and through Annette L. Hayes, United States Attorney for the Western District of Washington, and Jessica M. Manca, Special Assistant United States Attorney for said District, KEVIN SCOTT TA, and his attorney, Sara Brin, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11:

1. **Charges.** Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enters a plea of guilty to the following charges contained in the Superseding Indictment.

a. *Felon in Possession of Firearms*, as charged in Count 1, in violation of Title 18, United States Code, Section 922(g)(1);

1 b. *Possession of Controlled Substances with Intent to Distribute*, as
 2 charged in Count 2, in violation of Title 21, United States Code, Sections 841(a)(1) and
 3 (b)(1)(B), a lesser-included offense; and

4 c. *Possession of a Firearm in Furtherance of a Drug Trafficking Crime*,
 5 as charged in Count 3, in violation of Title 18, United States Code, Section 924(c)(1)(A).

6 By entering these pleas of guilty, Defendant hereby waives all objections to the
 7 form of the charging document. Defendant further understands that before entering his
 8 guilty plea, he will be placed under oath. Any statement given by Defendant under oath
 9 may be used by the United States in a prosecution for perjury or false statement.

10 2. **Elements.** The elements of the offenses to which Defendant is pleading
 11 guilty are as follows:

12 a. The elements of *Felon in Possession of Firearms*, as charged in
 13 Count 1, in violation of Title 18, United States Code, Section 922(g)(1), are as follows:

14 **First**, Defendant knowingly possessed a firearm; and

15 **Second**, at the time Defendant possessed the firearm, he had previously been
 16 convicted of a crime punishable by a term of imprisonment exceeding one
 17 year;

18 **Third**, the firearm had previously been shipped or transported from one
 19 state to another, or from a foreign nation to the United States.

20 b. The elements of *Possession of Controlled Substances with Intent to*
 21 *Distribute*, as charged in Count 2, in violation of Title 21, United States Code, Sections
 22 841(a)(1) and (b)(1)(B), are as follows:

23 **First**, Defendant knowingly possessed a controlled substance, that is,
 24 methamphetamine or heroin; and

25 **Second**, Defendant possessed the controlled substance with the intent to
 26 distribute it to another person.
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1 c. The elements of *Possession of a Firearm in Furtherance of a Drug*
 2 *Trafficking Crime*, as charged in Count 3, in violation of Title 18, United States Code,
 3 Section 924(c)(1)(A), are as follows:

4 **First**, Defendant committed the crime of *Possession of Controlled*
 5 *Substances with Intent to Distribute*, as charged in Count 2 of the
 6 Superseding Indictment, which is a drug trafficking crime;

7 **Second**, Defendant knowingly possessed a firearm; and

8 **Third**, Defendant possessed the firearm in furtherance of the crime of
 9 *Possession of Controlled Substances with Intent to Distribute*.

10 3. **The Penalties.** Defendant understands that the statutory penalties
 11 applicable to the offenses to which he is pleading guilty are as follows:

12 a. For the offense of *Felon in Possession of Firearms*, as charged in
 13 Count 1, in violation of Title 18, United States Code, Section 922(g)(1): A maximum term
 14 of imprisonment of up to 10 years, a fine of up to \$250,000.00, a period of supervision
 15 following release from prison of up to 3 years, and a mandatory special assessment of
 16 \$100.00 dollars.

17 b. For the offense of *Possession of Controlled Substances with Intent to*
 18 *Distribute*, as charged in Count 2, in violation of Title 21, United States Code, Sections
 19 841(a)(1) and (b)(1)(B): A maximum term of imprisonment of up to 40 years and
 20 mandatory minimum term of imprisonment of 5 years, a fine of up to \$5,000,000.00, a
 21 period of supervision following release from prison of at least 4 years, and a mandatory
 22 special assessment of \$100.00 dollars.

23 c. For the offense of *Possession of a Firearm in Furtherance of a Drug*
 24 *Trafficking Crime*, as charged in Count 3, in violation of Title 18, United States Code,
 25 Section 924(c)(1)(A): A maximum term of imprisonment of up to Life and a mandatory
 26 minimum term of imprisonment of 5 years, which sentence must be served consecutive to
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1 any other sentence, a fine of up to \$250,000.00, a period of supervision following release
2 from prison of up to 5 years, and a mandatory special assessment of \$100.00 dollars.

3 Defendant understands that supervised release is a period of time following
4 imprisonment during which he will be subject to certain restrictive conditions and
5 requirements. Defendant further understands that if supervised release is imposed and he
6 violates one or more of the conditions or requirements, Defendant could be returned to
7 prison for all or part of the term of supervised release that was originally imposed. This
8 could result in Defendant's serving a total term of imprisonment greater than the statutory
9 maximum stated above.

10 Defendant understands that as a part of any sentence, in addition to any term of
11 imprisonment and/or fine that is imposed, the Court may order Defendant to pay
12 restitution to any victim of the offense, as required by law.

13 Defendant further understands that a consequence of pleading guilty may include
14 the forfeiture of certain property either as a part of the sentence imposed by the Court, or
15 as a result of civil judicial or administrative process.

16 Defendant agrees that any monetary penalty the Court imposes, including the
17 special assessment, fine, costs, or restitution, is due and payable immediately and further
18 agrees to submit a completed Financial Statement of Debtor form as requested by the
19 United States Attorney's Office.

20 **4. Drug Offense - Proof of Drug Quantity for Mandatory Minimum.**

21 Defendant further understands that in order to invoke the statutory sentence for the drug
22 offense charged in Count 2, the United States must prove beyond a reasonable doubt that
23 the offense charged in this count involved 5 grams or more of methamphetamine, its salts,
24 isomers, or salts of its isomers. Defendant expressly waives the right to require the United
25 States to make this proof at trial and stipulates as a part of this plea of guilty that the
26 offense charged in Count 2 involved 5 grams or more of methamphetamine, its salts,
27 isomers, or salts of its isomers.
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1 5. **Drug Offenses - Program Eligibility.** Defendant understands that by
2 pleading guilty to a felony drug offense, Defendant will become ineligible for certain food
3 stamp and Social Security benefits as directed by Title 21, United States Code, Section
4 862a.

5 6. **Rights Waived by Pleading Guilty.** Defendant understands that by
6 pleading guilty, he knowingly and voluntarily waives the following rights:

- 7 a. The right to plead not guilty and to persist in a plea of not guilty;
- 8 b. The right to a speedy and public trial before a jury of his peers;
- 9 c. The right to the effective assistance of counsel at trial, including, if
10 Defendant could not afford an attorney, the right to have the Court
11 appoint one for him;
- 12 d. The right to be presumed innocent until guilt has been established
13 beyond a reasonable doubt at trial;
- 14 e. The right to confront and cross-examine witnesses against Defendant
15 at trial;
- 16 f. The right to compel or subpoena witnesses to appear on his behalf at
17 trial;
- 18 g. The right to testify or to remain silent at trial, at which trial such
19 silence could not be used against Defendant; and
- 20 h. The right to appeal a finding of guilt or any pretrial rulings.

21 7. **Ultimate Sentence.** Defendant acknowledges that no one has promised or
22 guaranteed what sentence the Court will impose.

23 8. **Forfeiture of Property.** Defendant agrees to forfeit to the United States
24 immediately all of his right, title, and interest in any property that constitutes was used, or
25 intended to be used, to commit or to facilitate commission of Possession of Controlled
26 Substances with Intent to Distribute (as charged in Count 2 of the Superseding Indictment)
27 and any property constituting or derived from proceeds he obtained as a
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1 result of this offense. This property is subject to forfeiture pursuant to Title 21, United
 2 States Code, Section 853 and includes but is not limited to:

- 3 a. one LWRC International rifle, bearing serial number 24-25309;
- 4 b. one Smith & Wesson .38 special caliber revolver, bearing serial
 5 number CDN8630;
- 6 c. one Taurus PT111 9mm handgun, bearing serial number TSC31231;
- 7 d. one Hialeah .40 caliber handgun, bearing serial number AE06380;
- 8 e. one Sig Sauer P229 handgun, bearing serial number 55B086957;
- 9 f. one Colt .45 caliber handgun, bearing serial number CJ47566;
- 10 g. one Smith & Wesson .357 magnum caliber revolver, bearing serial
 11 number 1D88604;
- 12 h. one Smith & Wesson 9mm caliber handgun, bearing serial number
 13 PAE8905; and
- 14 i. one Glock 19 9mm caliber handgun, bearing serial number UBF784.

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 17 Defendant also agrees to forfeit to the United States immediately all of his right,
 18 title, and interest in any firearm or ammunition involved or used in the commission of
 19 Felon in Possession of Firearms (as charged in Count 1 of the Superseding Indictment) or
 20 Possession of a Firearm in Furtherance of a Drug Trafficking Crime (as charged in Count
 21 3 of the Superseding Indictment). This property is subject to forfeiture pursuant to Title
 22 18, United States Code, Section 924(d)(1) and includes but is not limited to:

- 23 a. one LWRC International rifle, bearing serial number 24-25309;
- 24 b. one Smith & Wesson .38 special caliber revolver, bearing serial
 25 number CDN8630;
- 26 c. one Taurus PT111 9mm handgun, bearing serial number TSC31231;

- d. one Hialeah .40 caliber handgun, bearing serial number AE06380;
- e. one Sig Sauer P229 handgun, bearing serial number 55B086957;
- f. one Colt .45 caliber handgun, bearing serial number CJ47566;
- g. one Smith & Wesson .357 magnum caliber revolver, bearing serial number 1D88604;
- h. one Smith & Wesson 9mm caliber handgun, bearing serial number PAE8905; and
- i. one Glock 19 9mm caliber handgun, bearing serial number UBF784.

Defendant agrees to fully assist the United States in the forfeiture of this property and to take whatever steps are necessary to pass clear title to the United States, including but not limited to: surrendering title and executing any documents necessary to effect forfeiture; assisting in bringing any property located outside the United States within the jurisdiction of the United States; and taking whatever steps are necessary to ensure that property subject to forfeiture is not sold, disbursed, wasted, hidden, or otherwise made unavailable for forfeiture. Defendant agrees not to file a claim to any such property in any federal forfeiture proceeding, administrative or judicial, that may be initiated.

The United States reserves its right to proceed against any remaining property not identified in this Plea Agreement, including any property in which Defendant has any interest or control, if that property constitutes or is traceable to proceeds or facilitated his commission of Possession of Controlled Substances with Intent to Distribute, or was involved or used in his commission of Felon in Possession of Firearms or Possession of a Firearm in Furtherance of a Drug Trafficking Crime.

9. **Abandonment Of Contraband.** Defendant also agrees that if any federal law enforcement agency seized any firearms, ammunition, or contraband that was in Defendant's direct or indirect control, he abandons any and all interest in those firearms,

1 ammunition, accessories, or contraband and consents to their federal administrative
 2 forfeiture, official use, and/or destruction by the federal law enforcement agency that
 3 seized them.

4 10. **Statement of Facts.** The parties agree on the following facts. Defendant
 5 admits he is guilty of the charged offenses of Count 1: *Felon in Possession of Firearms*,
 6 Count 2: *Possession of Controlled Substances with Intent to Distribute*, and Count 3:
 7 *Possession of a Firearm in Furtherance of a Drug Trafficking Crime*:

8 a. On June 21, 2018, the King County Sheriff's Office executed a
 9 search warrant on Defendant's residence in Des Moines, King County,
 10 Washington.

11 b. During the search, investigators seized the following items from
 12 Defendant's bedroom:

- 13 • 131 grams of methamphetamine, 102 grams of heroin, and
 14 fentanyl pills;
- 15 • one loaded LWRC International rifle, bearing serial number
 16 24-25309;
- 17 • one Smith & Wesson .38 special caliber revolver, bearing
 18 serial number CDN8630;
- 19 • one Taurus PT111 9mm handgun, bearing serial number
 20 TSC31231;
- 21 • one Hialeah .40 caliber handgun, bearing serial number
 22 AE06380;
- 23 • one Sig Sauer P229 handgun, bearing serial number
 24 55B086957;
- 25 • one Colt .45 caliber handgun, bearing serial number CJ47566;
- 26 • one Smith & Wesson .357 magnum caliber revolver, bearing
 27 serial number 1D88604;

- a green storage tub filled with rifle parts, gun parts, magazines, and ammunition of various calibers;
- a tactical/ballistic vest; and
- two bump stocks.

c. Investigators also seized the following items from the trunk of Defendant's car, a white Audi S4 sedan:

- Controlled substances, including methamphetamine, heroin, and cocaine, a digital scale, and packaging material;
- one Smith & Wesson 9mm caliber handgun, bearing serial number PAE8905;
- one Glock 19 9mm caliber handgun, bearing serial number UBF784;

d. Defendant knowingly possessed all of the aforementioned controlled substances and firearms. Defendant admits that he possessed the methamphetamine and heroin with the intent to distribute those substances to other people. Defendant further admits to possessing the LWRC International rifle in furtherance of the crime of Possession of Controlled Substances with Intent to Distribute. Specifically, he stored this loaded rifle in his bedroom closet, next to the safe where he stored most of his controlled substances, in order to protect himself, his stash of controlled substances, and the financial proceeds from his drug sales.

e. Prior to possessing the aforementioned firearms, Defendant had previously been convicted of *Robbery in the First Degree*, on or about January 24, 2013, under cause number 12-1-04954-4, in King County Superior Court, Washington, which is a crime punishable by a term of imprisonment exceeding one year.

f. Each of the aforementioned firearms was shipped from one state to another state, or from a foreign nation to the United States, prior to being possessed by Defendant in the State of Washington.

g. The parties agree that the Court may consider additional facts contained in the Presentence Report (subject to standard objections by the parties)

1 and/or that may be presented by the United States or Defendant at the time of
2 sentencing, and that the factual statement contained herein is not intended to limit
3 the facts that the parties may present to the Court at the time of sentencing.

4 **11. United States Sentencing Guidelines.** Defendant understands and
5 acknowledges that the Court must consider the sentencing range calculated under the
6 United States Sentencing Guidelines and possible departures under the Sentencing
7 Guidelines together with the other factors set forth in Title 18, United States Code, Section
8 3553(a), including: (1) the nature and circumstances of the offenses; (2) the history and
9 characteristics of the defendant; (3) the need for the sentence to reflect the seriousness of
10 the offenses, to promote respect for the law, and to provide just punishment for the
11 offenses; (4) the need for the sentence to afford adequate deterrence to criminal conduct;
12 (5) the need for the sentence to protect the public from further crimes of the defendant; (6)
13 the need to provide the defendant with educational and vocational training, medical care,
14 or other correctional treatment in the most effective manner; (7) the kinds of sentences
15 available; (8) the need to provide restitution to victims; and (9) the need to avoid
16 unwarranted sentence disparity among defendants involved in similar conduct who have
17 similar records. Accordingly, Defendant understands and acknowledges that:

18 a. The Court will determine applicable Defendant's Sentencing
19 Guidelines range at the time of sentencing;

20 b. After consideration of the Sentencing Guidelines and the factors in
21 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the
22 maximum term authorized by law;

23 c. The Court is not bound by any recommendation regarding the
24 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
25 range offered by the parties or the United States Probation Department, or by any
26 stipulations or agreements between the parties in this Plea Agreement; and
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1 d. Defendant may not withdraw his guilty plea solely because of the
2 sentence imposed by the Court.

3 12. **Acceptance of Responsibility.** At sentencing, *if* the district court concludes
4 Defendant qualifies for a downward adjustment acceptance for acceptance of
5 responsibility pursuant to USSG § 3E1.1(a) and the defendant's offense level is 16 or
6 greater, the United States will make the motion necessary to permit the district court to
7 decrease the total offense level by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b),
8 because Defendant has assisted the United States by timely notifying the United States of
9 his intention to plead guilty, thereby permitting the United States to avoid preparing for
10 trial and permitting the Court to allocate its resources efficiently.

11 13. **Sentencing Factors.** The parties agree that the following Sentencing
12 Guidelines provisions apply to this case:

- 13 a. A base offense level of 30 is applicable to Count 2; pursuant to USSG
14 § 2D1.1(c)(5), because the offense involved a converted drug weight
15 between 1,000 and 3,000 kilograms.
- 16 b. The parties agree that the base offense level calculation for Count 2
17 should be based on the amounts of methamphetamine and heroin
18 only.

19 The parties agree they are free to present arguments regarding the applicability of
20 all other provisions of the United States Sentencing Guidelines. Defendant understands,
21 however, that at the time of sentencing, the Court is free to reject these stipulated
22 adjustments, and is further free to apply additional downward or upward adjustments in
23 determining Defendant's Sentencing Guidelines range.

24 14. **Recommendation Regarding Imprisonment.** The government will
25 recommend a sentence no higher than fourteen (14) years' imprisonment. Except as
26 otherwise provided in this plea agreement, the parties are free to present arguments
27 regarding any other aspect of sentencing, to include arguments with respect to the
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1 sentencing guidelines calculations. In connection with these arguments, the parties agree
 2 they are not limited to the facts included in Paragraph 11. Defendant is not bound by the
 3 government's recommendation. The Court is not bound by any recommendation
 4 regarding the sentence to be imposed, and may impose any term of imprisonment up to the
 5 statutory maximum penalty authorized by law. Defendant further understands that he
 6 cannot withdraw his guilty plea simply because of the sentence imposed by the district
 7 court.

8 **15. Other Consideration.** It is the understanding of this parties that, if
 9 Defendant enters into this Plea Agreement with the United States, the King County
 10 Prosecutor's Office will not prosecute Defendant for conduct investigated under King
 11 County Sheriff's Office incident C18020199.

12 **16. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
 13 the United States Attorney's Office for the Western District of Washington agrees not to
 14 prosecute Defendant for any additional offenses known to it as of the time of this
 15 Agreement that are based upon evidence in its possession at this time, and that arise out of
 16 the conduct giving rise to this investigation, and to move to dismiss Counts ^{4, 5, 6} ~~1, 2, 3~~ and 7
 17 of the Indictment at the time of sentencing. *mt sb jmm*

18 In this regard, Defendant recognizes the United States has agreed not to prosecute
 19 all of the criminal charges the evidence establishes were committed by Defendant solely
 20 because of the promises made by Defendant in this Agreement. Defendant agrees,
 21 however, that for purposes of preparing the Presentence Report, the United States
 22 Attorney's Office will provide the United States Probation Office with evidence of all
 23 conduct committed by Defendant.

24 Defendant agrees that any charges to be dismissed before or at the time of
 25 sentencing were substantially justified in light of the evidence available to the United
 26 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant
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1 with a basis for any future claims under the "Hyde Amendment," Pub.L. No. 105-119
2 (1997).

3 **17. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that if
4 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea
5 Agreement and Defendant may be prosecuted for all offenses for which the United States
6 has evidence. Defendant agrees not to oppose any steps taken by the United States to
7 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
8 Agreement. Defendant also agrees that if Defendant is in breach of this Plea Agreement,
9 Defendant has waived any objection to the re-institution of any charges in the Indictment
10 that were previously dismissed or any additional charges that had not been prosecuted.

11 Defendant further understands that if, after the date of this Agreement, Defendant
12 should engage in illegal conduct, or conduct that violates any conditions of release or the
13 conditions of his confinement, (examples of which include, but are not limited to,
14 obstruction of justice, failure to appear for a court proceeding, criminal conduct while
15 pending sentencing, and false statements to law enforcement agents, the Pretrial Services
16 Officer, Probation Officer, or Court), the United States is free under this Agreement to file
17 additional charges against Defendant or to seek a sentence that takes such conduct into
18 consideration by requesting the Court to apply additional adjustments or enhancements in
19 its Sentencing Guidelines calculations in order to increase the applicable advisory
20 Guidelines range, and/or by seeking an upward departure or variance from the calculated
21 advisory Guidelines range. Under these circumstances, the United States is free to seek
22 such adjustments, enhancements, departures, and/or variances even if otherwise precluded
23 by the terms of the plea agreement.

24 **18. Waiver of Appellate Rights and Rights to Collateral Attacks.** Defendant
25 acknowledges that by entering the guilty plea required by this plea agreement, Defendant
26 waives all rights to appeal from his conviction and any pretrial rulings of the court.
27 Defendant further agrees that, provided the court imposes a custodial sentence that is
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1 within or below the Sentencing Guidelines range (or the statutory mandatory minimum, if
2 greater than the Guidelines range) as determined by the court at the time of sentencing,
3 Defendant waives to the full extent of the law:

4 a. Any right conferred by Title 18, United States Code, Section 3742, to
5 challenge, on direct appeal, the sentence imposed by the court, including any fine,
6 restitution order, probation or supervised release conditions, or forfeiture order (if
7 applicable); and

8 b. Any right to bring a collateral attack against the conviction and
9 sentence, including any restitution order imposed, except as it may relate to the
10 effectiveness of legal representation; and

11 This waiver does not preclude Defendant from bringing an appropriate motion
12 pursuant to 28 U.S.C. § 2241, to address the conditions of his confinement or the
13 decisions of the Bureau of Prisons regarding the execution of his sentence.

14 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
15 attacking (except as to effectiveness of legal representation) the conviction or sentence in
16 any way, the United States may prosecute Defendant for any counts, including those with
17 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea
18 Agreement.

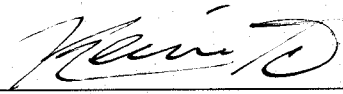
19 19. **Voluntariness of Plea.** Defendant agrees that he has entered into this Plea
20 Agreement freely and voluntarily and that no threats or promises, other than the promises
21 contained in this Plea Agreement, were made to induce Defendant to enter his pleas of
22 guilty.


23 20. **Statute of Limitations.** In the event this Agreement is not accepted by the
24 Court for any reason, or Defendant has breached any of the terms of this Plea Agreement,
25 the statute of limitations shall be deemed to have been tolled from the date of the Plea
26 Agreement to: (1) thirty (30) days following the date of non-acceptance of the Plea
27
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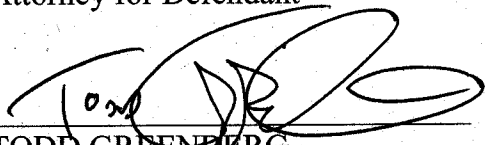
1 Agreement by the Court; or (2) thirty (30) days following the date on which a breach of
2 the Plea Agreement by Defendant is discovered by the United States Attorney's Office.

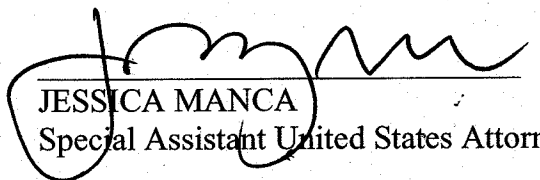
3 21. **Completeness of Agreement.** The United States and Defendant
4 acknowledge that these terms constitute the entire Plea Agreement between the parties.
5 This Agreement binds only the United States Attorney's Office for the Western District of
6 Washington. It does not bind any other United States Attorney's Office or any other
7 office or agency of the United States, or any state or local prosecutor.

8
9 Dated this 7th day of March, 2019.

10
11 
12 KEVIN TA
13 Defendant

14 
15 SARA BRIN
16 Attorney for Defendant

17 
18 TODD GREENBERG
19 Assistant United States Attorney

20
21 
22 JESSICA MANCA
23 Special Assistant United States Attorney